



Suggested opening remarks for Greg:

Continued expedited assessment and cleanup at Superfund sites

Ex. Tour of Kennecott mine with Doug Benevento

Compliance Assistance for Tribes including DW/WW/SW Task force including tribes in Utah

Stakeholder outreach at all states

UT sectors: Mining, O&G, Agriculture and Outdoor recreation

EPA working with Inland Port Authority on air quality strategies

Continue timely and enhanced risk communications

Improved Toxic Release Inventory (TRI) communication to communities.

Support Region 8 States during the pandemic and reopening

Ex: Provided technical assistance to farmers and ranchers when slaughterhouses closed because of the pandemic.

Ex: Provided disinfecting guidance including a list of disinfectants that kill COVID-19 on our website.



## Agenda

- Welcome – Greg Sopkin, Regional Administrator
- Mountains Deserts and Plains Office
- Presidential Memorandum
- Non-Attainment Updates
- American Gilsonite Permit
- Water Updates
- Questions & Closing – Greg Sopkin

"In President Trump's second term, we will help communities across this country take control and reshape themselves through the following five priorities." – from Administrator Wheeler's speech at the Nixon library

1. Creating a Community-Driven Environmentalism that Promotes Community Revitalization. (improving the quality of the environment in people's lives)
2. Meeting the 21st Century Demands for Water. (includes water reuse and water quality trading)
3. Reimagining Superfund as a Project-Oriented Program. (prioritize results over process)
4. Reforming the Permitting Process to Empower States. (reducing permitting time)
5. And, Creating a Holistic Pesticide Program for the Future. ("The American public views our pesticide program through the lens of the trial lawyers who advertise on television instead of the way we manage the program.")



## Office of Mountains, Deserts and Plains

OMDP's mission is to focus on:

- Expediting the effective cleanup of abandoned uranium mines on the Navajo Nation;
- Streamlining procedures and processes for Good Samaritan cleanup efforts and promote Good Samaritan cleanup projects at abandoned hard rock mining sites in the West;
- Overseeing and organizing, using Environmental Lean Management System (ELMS) principles, the cleanup of hard rock mining Superfund sites in the West;
- Identifying the most advanced technology solutions for historic mining sites in the West and seeing that they are implemented at sites in the West.
- Serve as a central point of contact for federal agencies, states, tribes and others with responsibility for or impacted by hardrock abandoned mine land sites

The Office of Mountains, Deserts and Plains (OMDP), which was announced on September 2, 2020 is part of the Office of Land and Emergency Management (OLEM) and reports directly to the Assistant Administrator of OLEM.



## President's Memorandum on Protecting Jobs, Economic Opportunities, and National Security for All Americans (October 31, 2020).

- Memorandum requires the Secretary of Energy to consult with several department heads including the Administrator of the EPA to assess and report the domestic and Economic Impacts of Undermining Hydraulic Fracturing and **Other Technologies (including**. While making this assessment, the Secretary of Energy must consider
- The economic impacts of prohibiting or sharply restricting the use of hydraulic fracturing and other technologies,
- The trade impacts of prohibiting, or sharply restricting hydraulic fracturing/other technologies
- Other domestic or economic impacts as the Secretary of Energy deems appropriate.
- The report is due to the president within 30 days from the date of the memorandum

President Trump's "Memorandum on Protecting Jobs, Economic Opportunities and National Security for All Americans" dated October 31, 2020 requires, under Section 4 of the memorandum, that the Secretary of Energy consult with several department heads including the Administrator of the EPA to assess and report the domestic and Economic Impacts of Undermining Hydraulic Fracturing and Other Technologies (including in mining operation) within 70 days from the date of the memo. While making this assessment, the Secretary of Energy must consider

-The economic impacts of prohibiting or sharply restricting the use of hydraulic fracturing and other technologies,

a. Any loss of jobs, wages, benefits, and other economic opportunities by American works and others who are indirectly benefitted by the industry,

b. Any increase in energy prices for the Americans and businesses,

c. Any decreases in property values, and in royalties and other revenues, and

d. Any decreases in tax revues, impact fees, royalties, and other revenues that are available to Federal, State, local and civic institutions

-The trade impacts of prohibiting, or sharply restricting hydraulic fracturing/other technologies

- Other domestic or economic impacts as the Secretary of Energy deems appropriate.



## Utah Air Quality Issues – Particulate Matter (PM<sub>2.5</sub>/PM<sub>10</sub>)

- EPA is proposing to formally change the Wasatch Front's (Salt Lake City and Provo) air quality status to attainment for fine particulate matter (PM<sub>2.5</sub>).
  - Our proposal, signed on October 29, 2020 also includes approving the "maintenance plans" submitted by Utah for these areas to ensure continued attainment of the fine particulate standard.
  - We are in a 30-day public comment period on this proposal that will end on December 7, 2020 and we invite stakeholders to submit comments. After the comment period concludes, we will review all comments and issue a final decision.
  - In September 2019, EPA formally determined that the two Serious PM<sub>2.5</sub> nonattainment areas, Provo and Salt Lake City, had met the fine particulate standard for three years running, and average concentrations of fine particulate had been reduced to 30 micrograms per cubic meter --- a 37% reduction since 2009.
  - Prior to this determination, in October of 2018, EPA also determined that the third PM<sub>2.5</sub> nonattainment area, Logan, which was considered a Moderate nonattainment area, attained the standard in 2017
- In February of 2020, EPA finalized the re-designation of three PM<sub>10</sub> nonattainment areas along the Wasatch Front back to attainment. Those areas were Salt Lake County, Utah County and Ogden City.



## Utah Air Quality Issues – Ozone

- On August 3, 2018, three areas in Utah were designated nonattainment for the 2015 8-hour ozone NAAQS at the Marginal classification.
  - Northern Wasatch (partial Weber and Tooele Counties, Salt Lake and Davis Counties)
  - Southern Wasatch (partial Utah County)
  - Uinta Basin
- The current preliminary “design value,” based on the average of data from ‘18, ‘19, and uncertified ‘20 shows:
  - Southern Wasatch area is attaining.
  - Northern Wasatch is not attaining.
  - Uinta Basin is not attaining.
  - Impacts from ‘20 wildfire smoke still need to be reviewed to determine final design values.
- If an area fails to attain the ‘15 ozone standard by the August 2021 attainment date, then the area will be reclassified from Marginal to Moderate.
- This higher classification would trigger additional Clean Air Act (CAA) requirements.
  - E.g., Implementation of Reasonably Achievable Control Technology (RACT)



## Utah Air Quality Issues – Ozone

- CAA179B Draft Guidance for nonattainment areas impacted by international emissions
  - Clean Air Act (CAA) section 179B gives states the option to show an area would be able to attain, or would have attained, the relevant National Ambient Air Quality Standard but for emissions emanating from outside the U.S.
  - EPA's draft CAA179B guidance describes recommended types of technical analyses for air agencies to include in such demonstrations.
  - In January 2020, the guidance was made available for a 60-day public review. EPA received comments from 15 entities, a mix of state/local air agencies, industry, and environmental groups.
  - The Office of Management and Budget determined the draft guidance to be significant, and therefore, it was submitted to OMB on August 31, 2020 for review.
  - EPA Region 8 staff have been working with Utah Division of Air Quality staff on international modeling issues.
- On July 13, 2020, based on a review of the full body of currently available scientific evidence and exposure/risk information, the EPA proposed to retain the existing ozone NAAQS of 70ppb.



## American Gilsonite Company

Through the late spring and summer of 2020, Region 8 worked with American Gilsonite Company as they went through a company self-audit and reported to EPA about Clean Air Act compliance concerns at two of their facilities operating in the Uintah and Ouray (U and O) Indian Reservation.

American Gilsonite Company – Cottonwood Mine is a gilsonite mine operating within the U and O Indian Reservation. Through a self-reporting compliance audit, AGC determined that the Cottonwood Mine facility may have needed a title V operating permit based on the emissions from diesel fired engines operating at the facility. Through working with Region 8 staff, it was determined that the facility could apply for a True Minor Tribal Minor New Source Review permit and be able to operate in compliance with all applicable CAA regulations. The permit was issued to the Cottonwood Mine facility on November 3, 2020. American Gilsonite Company – Bonanza Mine is also a gilsonite mine operating within the U and O Indian Reservation. Through a self-reporting compliance audit for this facility, AGC had concerns that the Bonanza Mine may also need a title V operating permit. In working with Region 8 staff, it was discovered that the Bonanza Mine had previously submitted the appropriate registration forms, and due to the emissions from this facility being low enough, no title V permit was needed at this time. Both facilities now have all appropriate permits for AGC to operate in compliance with applicable CAA regulations on the U and O Indian Reservation.



# Navigable Waters Protection Rule (WOTUS)

- Effective date June 22, 2020
- Rule implemented by EPA and the Army in all states except CO (District Court stayed the rule in CO)
- The agencies have developed a series of recorded trainings and several joint memoranda to facilitate implementation of the rule
- For additional information, including other tools and resources: (<https://www.epa.gov/nwpr>)

On April 21, 2020 EPA and the Department of the Army (Army) published the Navigable Waters Protection Rule (NWPR) revising the definition of “waters of the United States” under the Clean Water Act. The final rule establishes four categories of waters that are federally regulated: 1) the territorial seas and traditional navigable waters, 2) perennial and intermittent tributaries to those waters, 3) certain lakes, ponds, and impoundments, and 4) wetlands adjacent to jurisdictional waters. The final rule also details 12 categories of exclusions (i.e., features that are not “waters of the United States”), such as artificial lakes and ponds, stormwater control features, waste treatment systems, and many ditches.

The Navigable Waters Protection Rule went into effect on June 22, 2020, and is currently in effect in all states except Colorado where the District Court for the District of Colorado granted a motion for a preliminary injunction on June 19, 2020.

To facilitate consistent and effective implementation of the NWPR, the agencies have developed a series of products involving training, implementation memos, and other tools and resources. These materials are available on EPA’s website listed here on the slide (<https://www.epa.gov/nwpr>), along with a wealth of other information on the new rule, including the Federal Register notice of the final rule, supporting analyses, and fact sheets.

The series of recorded training webinars that are available provide an overview of the rule, as well as more in-depth information on specific aspects of the rule, including the tributary and adjacent wetlands categories, application of the “typical year” concept, flow classifications, ditches, excluded waters and more.

Also posted on EPA’s website are four implementation memos, recently released by EPA and the Army to ensure consistent implementation of the final rule. The memoranda establish procedures by which EPA, Army and the Corps will coordinate on certain jurisdictional determinations and policy matters, application of irrigation and drainage ditch exemptions under Section 404(f) of the CWA, and coordination between the agencies and USDA in the administration of the CWA Section 404 program and the Wetland Conservation Provisions of the Food Security Act of 1985 (NRCS Swampbuster provisions).

EPA regions and Corps district offices are still working through direction from our HQs on implementation. We continue to have internal trainings and are also coordinating on regionally specific implementation questions from the field through a group of Division Implementation and Training Teams that have been established.

As the agencies move forward with implementing the rule, the agencies will consider other guidance or FAQs, if and as necessary, to facilitate implementation of the NWPR, as the agencies gain field experience to address implementation questions that may arise. Any such guidance will be developed in compliance with Executive Order 13891, and with any applicable public participation requirements.



## Clean Water Act Section 401 Rule

- On April 10, 2019, President Trump issued Executive Order 13868, "Promoting Energy Infrastructure and Economic Growth," which directed the EPA to promulgate a new rule that modernizes the Agency's water quality certification regulations (40 CFR Part 121).
- On June 1, 2020, the EPA finalized the "Clean Water Act Section 401 Certification Rule" to implement the water quality certification process consistent with the text and structure of the CWA. The Rule became final on September 11, 2020.
- The new Rule establishes clear actions and timeframes for the project proponent, the U.S. Army Corps of Engineers (USACE), and the Certifying Agency to follow when issuing a CWA 401 certification.
- For More Information: <https://www.epa.gov/cwa-401/public-webinar-clean-water-act-section-401-certification-rule>

The Clean Water Act Section 401 Rule Section 401 of the Clean Water Act (CWA) requires that: any applicant for a federal license or permit which may result in a discharge into waters of the United States must obtain a water quality certification from the certifying authority that the discharge complies with all applicable water quality requirements.

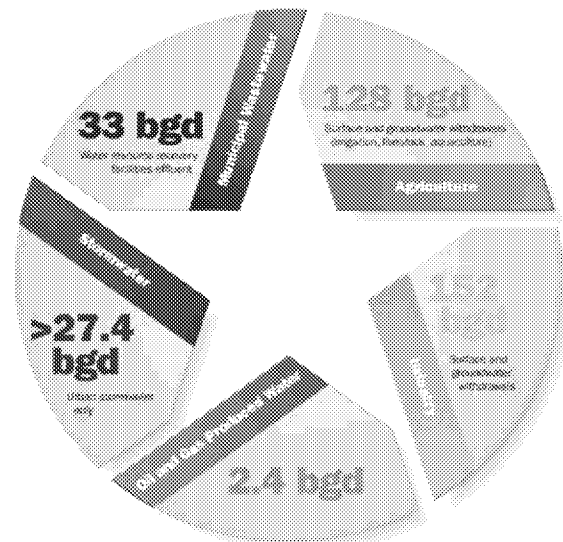
In addition, USACE has proposed Nationwide Permits. All 52 existing Nationwide Permits were reissued and 5 new Nationwide Permits were created. The Reissued Nationwide Permits – proposed on 9/15/20 and available for public comment until 11/16/20 Nationwide Permits authorize only those activities that result in no more than minimal adverse environmental effects, both individually and cumulatively. Activities that are sometimes authorized under a NWP can include streambank stabilization, culvert replacement, road work, etc.

Certifying agencies are currently developing 401 certifications for the new Proposed Nationwide Permits.



# Water Reuse Action Plan

- Plan finalized on Feb 27, 2020
- Priority for the President and the Administrator
- This will improve our water security, sustainability, meet future water quantity needs
- Over 280 BGD potentially available for reuse
- Focus on Five Sources: Industry, Produced Water, Stormwater, Municipal Wastewater, Agriculture



Source: [www.epa.gov/efoss/production/files/2019-09/documents/water-reuse-action-plan-draft-2019.pdf](http://www.epa.gov/efoss/production/files/2019-09/documents/water-reuse-action-plan-draft-2019.pdf). Figure Imagery by naihel/Shutterstock.com.

"A reliable water reuse program provides great opportunity for alternatives to existing water supplies across the nation to enhance water security, sustainability, and resilience for communities, rural and urban alike, across the country," said EPA Administrator Andrew Wheeler. "By launching this phase of the National Water Reuse Action Plan, federal agencies are driving progress on this national priority and delivering on President Trump's commitment to ensuring a reliable supply of water for our nation."

Goals or Objectives of the Water Reuse Action Plan include:

1) Provide alternatives to existing water supplies

This will enhance water security, water sustainability, and resiliency or ability for a water supply to withstand flood/drought or natural disaster.

2) Reduce the demand on fresh or alternative water

Water reuse within the same sector is sustainable and reduces the demand for alternative or fresh water sources (e.g. potable water)

3) Secure our nation's water future

With aging infrastructure, a growing population, more extreme weather conditions (drought/flooding), and new challenges that stress our water supply, there is a growing urgency to secure our nation's water future.



## Water Reuse Action Plan – Strategic Themes

- 2.1 Integrated Watershed Action
- 2.2 Policy Coordination
- 2.3 Science and Specifications
- 2.4 Technology Development and Validation
- 2.5 Water Information Availability
- 2.6 Finance Support
- 2.7 Integrated Research
- 2.8 Outreach and Communications
- 2.9 Workforce Development
- 2.10 Metrics for Success
- 2.11 International Collaboration



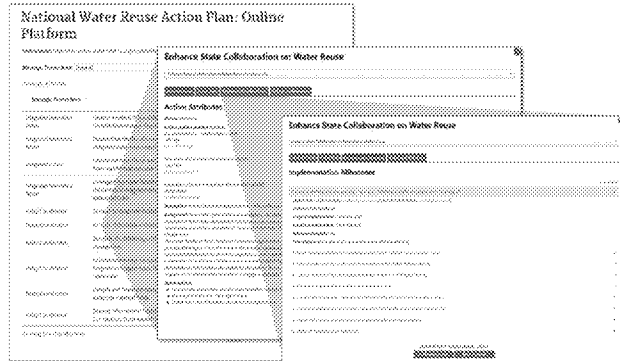
There are 11 strategic themes that are the focus of the WRAP. Within each theme, there are subthemes and projects which are headed by a number of federal and industry partners.

Because water reuse involves more than EPA, we are collaborating with a number of federal and other partners to focus our actions in a joint fashion – so that we can accomplish so much more.



# Water Reuse Action Plan On-Line Platform

- Repository for all actions (developed and undeveloped)
- Identifies leaders, partners, interested collaborators
- Captures milestones and progress



<https://www.epa.gov/waterreuse/national-water-reuse-action-plan-online-platform>

So far, we have accomplished a lot in the last 8 months:  
94 implementation milestones have been completed (out of 259)  
More than 30 new milestones were added since February

All of our progress is documented on the Online Platform –  
This platform is updated weekly to share implementation progress  
more than 500 updates across 35 actions are included on the platform

Finally, to share information, Region 8 has been meeting with federal, state, tribal, and local stakeholders to update them on our progress, to highlight programs that can benefit them, and to gather information from our stakeholders to make sure that we are focused on the areas that most benefit our Region 8 partners.



## Questions

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Attainment of the 2008 and 2015 ozone NAAQS means that the 3-year average of 4 maxima 8-hour ozone (termed the design value) from 2018-2020 must be at or below 75 parts per billion (ppb) and 70 ppb, respectively. The current, preliminary design value for the DMNFR area (based on uncertified 2020 data) is 77 ppb. This means the area is potentially violating both NAAQS.